

EXHIBIT A



CLEVELAND DIVISION OF POLICE

GENERAL



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| EFFECTIVE DATE: 12-20-2018 | CHAPTER: | PAGE: 6 OF 6 | NUMBER: |
| SUBJECT: FORCE REVIEW BOARD | | | |
| CHIEF: | | | |

PURPOSE: To ensure that the Division's investigations of use of force incidents are thorough, comprehensive and of the highest quality, and that the Division continually analyzes tactics, training, policies, processes, and procedures in order to continually improve, regardless of whether the application of force in any given incident was consistent or inconsistent with policy.

POLICY: The Cleveland Division of Police establishes a Force Review Board (FRB) to serve as a quality control mechanism for uses of force and force investigations, and to appraise use of force incidents from tactics, training, policy, and agency improvement perspectives. The FRB shall review selected use of force investigations to determine whether the force investigation was thorough and complete; determine whether there are considerations that need to be addressed regarding de-escalation, supervision, equipment, tactics, training, policy, and best practices; to determine whether the chain of command has appropriately identified and taken actions to correct deficiencies; identify trends or patterns of deficiencies; and monitor all aspects of the Division's use of force practices with the goal of continual improvement. FRB members or their designees are expected to attend all FRB meetings and be fully prepared in advance of the meetings.

PROCEDURES:

I. Composition of the Force Review Board

- A. The FRB shall be comprised of a representative from the following units/districts, selected by the unit/district Commander/Administrator as the standing members of the FRB. The FRB shall consist of, at a minimum:
1. The Chief of Police or his or her designee, who shall serve as Chair of the FRB;
 2. The Bureau of Compliance (BOC);
 3. Internal Affairs (IA);
 4. A supervisor from the training section;
 5. The Office of Professional Standards ("OPS") Administrator;
 6. A supervisor from each District serving a minimum term of 12 months, when any involved officer(s) are assigned to their District.
 7. The Data Analysis and Collection Coordinator (DACC). The DACC shall serve as a non-voting advisory member of the FRB.

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- B. The FRB may include or consult with any subject matter experts or advisors the Chair believes would be helpful in reviewing particular incidents. Any subject matter experts or advisors shall be non-voting members.

II. Frequency of Force Review Board Meetings

- A. The FRB shall convene quarterly.
- B. As necessitated by submitted investigations, the Chair may schedule special meetings more frequently.

III. Cases Reviewed by the Force Review Board

- A. The DACC shall provide the BOC Commander with a list of investigations, pulled from the use of force tracking software, completed since the prior FRB meeting. The following investigations shall be provided for review by the FRB members two weeks prior to a scheduled FRB meeting:
1. All FIT investigations
 2. All Level 2 investigations with a finding of force related misconduct
 3. A random sample of all Level 2 force in which there was no finding of force-related misconduct. The sample will consist of 10 percent of all such Level 2 investigations or five such Level 2 investigations per meeting, whichever is greater. The DACC will specify the method for selecting a random sample of completed investigations of force incidents and will memorialize that method for the FRB.
- B. The BOC Commander will provide members a complete copy of investigations to be reviewed during a FRB meeting 2 weeks prior to the meeting.
- C. The FRB shall conduct comprehensive and reliable reviews of investigations within 90 days of receipt by the FRB. An investigation is considered received by the FRB when that investigation has been forwarded to the BOC Commander.

IV. Responsibilities of Force Review Board Members

- A. FRB Member Responsibilities
1. Each standing member shall serve a minimum term of 12 months, unless specifically relieved due to lack of attendance, changed assignment, or other material cause.
 2. Any FRB member who is unable to attend a meeting shall notify the BOC Commander a minimum 5 days in advance of any scheduled FRB meeting that their assigned designee will be attending.
 3. FRB members shall complete, at a minimum, a 4 hour initial training course as soon as practicable upon being appointed to FRB, to include, but not limited to,

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training on CPD's use of force policies and the policies and procedures used by the FRB.

4. Annually, FRB members shall receive training directly relevant to their role and service on the FRB, which may include but is not limited to:
 1. Legal updates regarding use-of-force;
 2. Updates to CPD's policies;
 3. Use-of-force investigations best practices; and
 4. Curriculum utilized by the Training Section regarding use-of-force.

B. BOC Commander Responsibilities

1. The BOC Commander is responsible for ensuring administrative and logistical assistance to the FRB in order to ensure dissemination of materials, smooth operation of FRB meetings, communication of FRB findings to the Chief of Police, and follow-up of FRB recommendations across the Division.

V. Procedure for Review and Adjudication of Cases by the Force Review Board

- A. The Chief of Police, or his/her designee, shall chair the FRB and shall preside over the meeting.
- B. The Chair shall guide the Board through completion of the FRB Checklist. The Chair shall recognize members of the FRB to ask questions.
 1. The FRB must vote on the answers to all questions and administratively approve or disapprove for each section, addressing and voting on each question in the order listed.
- C. For each incident it reviews, the FRB shall hear a case presentation from:
 1. The lead FIT investigator for FIT investigations or;
 2. A representative from the District where the force occurred for supervisory investigations involving Level 2 uses of force.
- D. For each review, the FRB shall consider the actions and inactions of all officers, supervisors, commanders, and dispatchers involved in the incident. The FRB's review includes, but is not limited to:
 1. An officer's decision-making at the time that the officer used force, including whether the incident raises policy concerns;
 2. The circumstances leading up to the use or application of force, including whether the incident raises policy concerns;

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3. Tactical decisions;
 4. Information sharing and communication;
 5. Adequacy of supervision throughout the incident;
 6. Equipment;
 7. Training;
 8. CPD's medical response, when applicable; and
 9. Any commendable actions
- E. The FRB shall also review any material written or recorded evidence from the incident and discuss the case as necessary with the investigator or District representative to gain a full understanding of the facts of the incident.
- F. Each FRB review shall include an assessment of the integrity, comprehensiveness, objectivity, thoroughness, and timeliness of all aspects of the use of force investigation. The FRB must ensure that the force investigation is objective and complete, and that investigatory findings are supported by a preponderance of the evidence. Where the findings are not supported by a preponderance of the evidence, the FRB will do either of the following:
1. Order additional investigation when it appears that there is additional relevant evidence that may assist in resolving inconsistencies or improve the reliability or credibility of force investigations; or
 - a. The Chair or his/her designee shall be responsible for forwarding the investigation back to the primary investigator's appropriate unit with requests for specific information concerning inconsistencies or concerns in the investigation and for ensuring that it is subsequently reviewed by the FRB upon return from the primary investigator's unit as expeditiously as possible.
 2. Document the reasons for the determination that the findings are not supported by a preponderance of the evidence, including the specific evidence or analysis supporting its conclusions, and forward its recommendations to the Chief of Police.
- G. The FRB shall make separate, formal findings of "administrative approval" or "administrative disapproval" for each involved employee in each incident with respect to:
1. Tactics and decision making;
 2. Use of force;
 3. Supervision; and
 4. The underlying use of force investigation.

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- H. All findings of the FRB must be supported by a preponderance of the evidence.
- I. The FRB shall not make determinations or recommendations about discipline; however, where appropriate, the FRB may recommend non-disciplinary corrective action to enable or encourage an officer to improve his/her performance.
- J. Only standing and voting members of the FRB may participate in the deliberations during the FRB meetings.
- K. All FRB determinations shall be made by majority vote.
 - 1. Only standing and voting members of the FRB are permitted to vote and shall not abstain from voting on any matter unless authorized in advance of the FRB meeting by the Chair or immediately upon the FRB member learning that abstention is necessary to avoid a conflict of interest.
 - 2. The FRB Chair shall vote in cases where the vote is evenly split.
- L. The Chair, or designee, shall ensure accurate recording of all findings of the FRB, including the determinations on the FRB Checklist [cross-reference].
- M. The Chair shall refer policy, equipment, and training issues to the appropriate Commanders. At the conclusion of each incident review, the FRB Chair shall assign for follow-up any policy, equipment or training recommendations from the FRB.
- N. The Chief or his or her designee shall, if the use of force indicates policy, training, tactical, or equipment concerns, ensure that FRB's recommendations, including any non-disciplinary corrective action, are implemented as appropriate, any necessary training is delivered and that policy, training, tactical, or equipment concerns are resolved.
- O. The FRB shall use a tracking system to ensure that each of its recommendations, whether regarding individual employees, training, policy, equipment, communication, or other issues, has been forwarded to the appropriate Division personnel.
- P. BOC Commander Responsibilities
 - 1. The BOC Commander shall ensure that the FRB's findings for each involved employee are documented in a report to the Chief of Police within fifteen days of the presentation of the case to the FRB.
 - 2. The BOC Commander shall maintain a record of all recommendations and the status of implementing each recommendation.

VI. Reporting

- A. Quarterly, the BOC Commander shall provide to the FRB a report of the status of the FRB recommendations and Commanders' responses.

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- B. At least annually, the FRB shall examine data related to use of force to detect any patterns, trends, and training deficiencies and make recommendations for correction, as appropriate. This analysis will be conducted in conjunction with the Data Collection and Analysis Coordinator.

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